

Notice of Allowability

Application No.

10/607,092

Applicant(s)

CAMPBELL ET AL.

Examiner

Norca L. Torres-Velazquez

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Terminal Disclaimer filed April 28, 2005.
2. ☒ The allowed claim(s) is/are 1,2,4-24 and 26-42.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

Terminal Disclaimer

1. The terminal disclaimer filed on April 28, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Pat. NO. 6,787,228 has been reviewed and is accepted. The terminal disclaimer has been recorded.
2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Lewis Rowell on April 26, 2005.

- a. The first paragraph of the Specification has been amended as follows:

RELATED APPLICATIONS

This application is a continuation-in- part of the application Ser. No. 09/851,888, filed May 9, 2001, now U.S. Pat. No. 6,706,650, issues Mar. 16, 2004.

- b. Claims 1, 5, 23, 27 and 33 have been amended as follows:
 1. A fabric for use in safety apparel, comprising:
 - (a) a first yarn type comprising an intimate blend of:
 - at least about 70 percent modacrylic fibers

- and high energy absorptive fibers;

(b) a second yarn type comprising an intimate blend of:

- anti-static fibers
- and modacrylic fibers; and

(c) wherein, the fabric meets the Federal Test Method Standard 191A, Method 5931 for electrostatic decay, and the Electrostatic Discharge Association Advisory ADV11.2-1995 for voltage potential.

5. The fabric of claim 1 wherein the second yarn type further comprises high energy absorptive fibers.

23. A safety garment having high visibility and flame resistant characteristics formed from:

(a) a fabric comprising a first yarn type and a second yarn type;

(b) the first yarn type comprising an intimate blend of:

- at least about 70 percent modacrylic fibers
- and high energy absorptive fibers;

(c) the second yarn type comprising an intimate blend of:

- anti-static fibers
- and modacrylic fibers; and

(d) wherein, the fabric meets the Federal Test Method Standard 191A, Method 5931 for electrostatic decay, and the Electrostatic Discharge Association Advisory ADV11.2-1995 for voltage potential.

Art Unit: 1771

27. The safety garment of claim 23 wherein the second yarn type further comprises high energy absorptive fibers.

33. The safety garment of claim 23 wherein said fabric comprises between about 90 percent and 97 percent modacrylic fibers and at least about 3 percent high energy absorptive fibers.

3. The following is an examiner's statement of reasons for allowance:

Claims 1-2, 4-24 and 26-42 are allowed.

The prior art of record fails to teach a fabric that comprises two type of yarns: one comprising at least about 70% modacrylic fibers in an intimate blend with high energy absorptive fibers, the second yarn comprising an intimate blend of anti-static fibers and modacrylic fibers. The term "intimate blend" or "intimate mixture" is interpreted by the Examiner as a uniform blend of the fibers. The Montgomery '262 reference teaches a yarn that could comprise up to 80% modacrylic fibers and about 20% aramid, however, it is a core-spun construction and fails to teach or suggest the fibers in an "intimate blend". With regards to the term "high energy absorptive fibers", it is the Examiner's interpretation that such fibers are those described in the Specification as having a tenacity of at least about 4 grams/denier and further exemplified as being aramid fibers. (Refer to Specification, page 7, lines 23-24, page 8; lines 23-24 and Table I)

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 1771

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Norca L. Torres-Velazquez
Examiner
Art Unit 1771

April 29, 2005



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SUPERVISORY PATENT EXAMINER
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